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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,388	06/30/2000	Robert A Knee	UV-156	9475
7590 10/19/2005				
G Victor Treyz Fish & Neave 1251 Avenue of the Americas New York, NY 10020-1104			EXAMINER SALCE, JASON P	
			ART UNIT 2614	PAPER NUMBER

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/608,388	Applicant(s) KNEE ET AL.	
	Examiner Jason P. Salce	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/25/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-120 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-120 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 5/25/2005 have been fully considered but they are not persuasive.

Applicant's only argument is that Rothmuller does not teach "automatically tuning" because an AUTO-TUNE prompt is taught. The AUTO-TUNE prompt simply is used to teach automatic tuning on and off. Column 8, Lines 3-15 clearly teach that a tuner automatically tunes to a television show at the time of broadcast.

Therefore the rejection stands and this Office Action is made Final.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2, 6, 7, 17, 18, 22, 23, 27-28, 38-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Rothmuller (US Patent # 5,635,989).

Regarding claim 1, Rothmuller discloses monitoring 63 (column 5, line 59-column 6, line 4; figure 4) the television viewing habits of the user with the interactive television program guide (column 7, lines 45-65).

Rothmuller discloses using the interactive television program guide to automatically tune (column 8, lines 3-15: the user is prompted, then processor 15

automatically tunes) the user equipment 10 (IRD: figure 1) to the given television channel in response to turning on the user equipment 10 (activation: column 7, lines 49-65), wherein the given television channel is selected by the interactive television program guide based on the monitored television viewing habits of the user.

Regarding claim 2, Rothmuller discloses the user equipment includes a set top box 10 (IRD: figure 1), further comprising using the interactive television program guide to tune the set-top box 10 to the given television channel when the set-top box 10 is turned on (column 7, line 49-column 8, line 15).

Regarding claim 6, Rothmuller discloses providing television program reminders (prompts: column 8, lines 3-15) to the user based on the monitored television viewing habits of the user.

Regarding claim 7, Rothmuller discloses monitoring the television viewing habits of the user by monitoring the time and by monitoring the channels tuned to by the user with the interactive television program guide (column 6, lines 46-58).

Regarding claim 17, Rothmuller discloses the interactive television program guide to automatically tune (column 8, lines 3-15) the user equipment to the television channel based at least partially on the current time (column 7, lines 46-58).

Regarding claim 18, Rothmuller discloses the user watching a preferred television channel (column 6, lines 23-39) and using the interactive television program guide to automatically tune (column 8, lines 3-15) the user equipment to the preferred television (favorite channel) channel when the user equipment 10 is turned on (column 7, lines 45-58).

Regarding claim 22, the limitations in claim 22 have been met in claim 1 rejection. Rothmuller discloses the additional limitations of a control circuitry 10 (figure 1), a display (column 4, lines 29-53; figure 2), and a user input interface 40.

Regarding claim 23, the limitations in claim 23 have been met in claim 2 rejection.

Regarding claims 27-28, the limitations in claims 27-28 have been met in claim 6-7 rejections.

Regarding claims 38-39, the limitations in claims 38-39 have been met in claims 17-18 rejections.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3-4, 8-10, 24-25, 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothmuller.

Regarding claims 3-4, Rothmuller discloses user equipment 10 (figure 1). Rothmuller fails to disclose the user equipment comprising of a digital video recorder or a personal computer. The examiner takes Official Notice that user equipment comprising of a digital video recorder or a personal computer are notoriously well known in the art. It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to modify Rothmuller to have the user equipment comprise of a digital video recorder or a personal computer in order to give the user the option to record the program on their digital video recorder or personal computer.

Regarding claim 8, Rothmuller discloses the favorite program list is stored in a memory 20 such as a RAM (column 7, lines 46-58). Rothmuller fails to disclose storing information on the television viewing habits of the user in a history database. The examiner takes Official Notice that databases are notoriously well known in the art for storing information. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller to have a database storing information in order to have data stored so they can be used by different programs without concern for data structure or organization.

Regarding claim 9, Rothmuller discloses the favorite program list is stored in a memory 20 such as a RAM (column 7, lines 46-58). Rothmuller fails to disclose storing information on the television channels that the user watches in a database. The examiner takes Official Notice that specific channels that correspond to programs and databases are notoriously well known in the art for storing information. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller to have specific channels stored in a database storing information in order to have data stored so they can be used by different programs without concern for data structure or organization.

Regarding claim 10, Rothmuller discloses storing information on the television channels that the user equipment is tuned to when the user is watching television and

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storing information on the times at which the user watches those channels on the user equipment (column 6, lines 5-22). The limitation on database has been met in claim 9 rejection.

Regarding claim 24-25, the limitations in claims 24-25 have been met in claims 3-4 rejections.

Regarding claims 29-31, the limitations in claims 29-31 have been met in claims 8-10 rejections.

3. Claims 5, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothmuller in view of Levitan (US Patent # 5,534,911) in further view of Lawler (US Patent # 5,907,323).

Regarding claim 5, Rothmuller fails to disclose an interactive menu on user equipment that includes options that allow a user to invoke an interactive television program guide. Levitan discloses an interactive menu (figure 1) that includes an option that allows a user to invoke an interactive television program guide (column 4, lines 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller to have an interactive menu on user equipment that includes options that allow a user to invoke an interactive television program guide as taught by Levitan in order to give the user several options to choose from such as personal guide, auto recording, and channel control.

Neither Rothmuller nor Levitan discloses video on demand. Lawler discloses the EPG with an option for video on demand (column 8, line 52-column 9, line 33; column 9,

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lines 50-59) for the benefit of improving the shortcomings of conventional program guides (column 2, lines 33-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller in view of Levitan to have video on demand with the EPG as taught by Lawler in order to provide the user a improved program guide.

Regarding claim 26, the limitations in claim 26 have been met in claim 5 rejection.

4. Claims 11-16, 20-21, 32-37, 41-46, 48-60, 62-66, 68-80, 82-86, 88-100, 102-105, 107-119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothmuller in view of Klosterman (US Patent # 6,469,753).

Regarding claim 11, Rothmuller fails to disclose program listings data is provided from a program listings source, further comprising receiving the program listings data at the television distribution facility from the program listings source. Klosterman discloses the user equipment 116, 118, 120 is connected 113 to the television distribution facility 140 and wherein program listings data (television schedule information) is provided from a program listings source, further comprising receiving the program listings data at the television distribution facility 140 from the program listings source 110 (column 4, lines 48-67; figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller to have user equipment is connected to the television distribution facility and wherein program listings data is provided from a program listings source, further comprising receiving the program listings data at the

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television distribution facility from the program listings source as taught by Klosterman in order to provide local services to the user equipment.

Regarding claim 12, the limitations in claim 12 have been met in claim 11 rejections. Klosterman discloses the additional limitation of the interactive television program guide is implemented on the user equipment (column 5, line 48-column 6, line 4; figure 2).

Regarding claim 13, the limitations in claim 13 have been met in claims 11-12 rejections. Klosterman discloses the additional limitation of the user equipment is connected to a television distribution facility by a wireless communications path (satellite 115: column 4, lines 45-62).

Regarding claim 14, the limitations in claim 14 have been met in claims 11-12 rejections. Klosterman discloses the additional limitation of the user equipment is connected to a television distribution facility by a cable path (cable path 113: column 4, lines 45-47).

Regarding claim 15, the limitations in claim 15 have been met in claims 11, 14 rejections. Klosterman discloses the additional limitation of the cable system headend 140 (column 4, lines 47-67).

Regarding claim 16, the limitations in claim 16 have been met in claims 11, 13 rejections. Klosterman discloses the additional limitation of satellite receiver (column 4, lines 53-56) and satellite television distribution facility 110, 115 (column 4, lines 47-67).

Regarding claim 20, Rothmuller fails to disclose automatically tune the user equipment to the given television channel based on the user's interactions with the

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interactive television program guide. Klosterman discloses using the interactive television program guide to automatically tune the user equipment to the given television channel based on the user's interactions with the interactive television program guide (column 6, lines 5-13; figure 2a). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller to use the interactive television program guide to automatically tune the user equipment to the given television channel based on the user's interactions with the interactive television program guide as taught by Klosterman in order to conveniently tune to a channel from the program guide.

Regarding claim 21, Rothmuller fails to disclose allowing the user to adjust setting in the interactive television program guide and automatically tuning the user equipment to the given television channel based on the user's interactions with the **interactive television program guide.** Klosterman disclose allowing the user to adjust setting (schedule autotune: column 6, lines 5-13; figure 2a) in the interactive television program guide and automatically tuning the user equipment to the given television channel based on the user's interactions with the interactive television program guide (figure 2b). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller to allowing the user to adjust setting in the interactive television program guide and automatically tuning the user equipment to the given television channel based on the user's interactions with the interactive television program guide as taught by Klosterman in order to conveniently tune to a channel from a program guide.

Regarding claims 32-37, the limitations in claims 32-37 have been met in claims 11-16 rejections.

Regarding claims 41-42, the limitations in claims 41-42 have been met in claims 20, 21 rejections.

Regarding claim 43, the limitations in claim 43 have been met in claim 21 rejection.

Regarding claims 44-46, the limitations in claims 44-46 have been met in claims 2-4 rejections.

Regarding claims 48-52, the limitations in claims 48-52 have been met in claims 6-10 rejections.

Regarding claims 53-58, the limitations in claims 53-58 have been met in claims 11-16 rejections.

Regarding claims 59-60, the limitations in claims 59-60 have been met in claims 17-18 rejections.

Regarding claim 62, the limitations in claim 62 have been met in claim 20 rejection.

Regarding claims 63-66, the limitations in claims 63-66 have been met in claims 43-46 rejections. Rothmuller discloses the additional limitations of a control circuitry 10 (figure 1), a display (column 4, lines 29-53; figure 2), and a user input interface 40.

Regarding claims 68-72, the limitations in claims 68-72 have been met in claims 48-52 rejections.

Regarding claims 73-78, the limitations in claims 73-78 have been met in claims 53-58 rejections.

Regarding claims 79-80, the limitations in claims 79-80 have been met in claims 59-60 rejections.

Regarding claim 82, the limitations in claim 82 have been met in claim 62 rejection.

Regarding claim 83, the limitations in claim 83 have been met in claim 20 rejection.

Regarding claims 84-86, the limitations in claims 84-86 have been met in claims 2-4 rejections.

Regarding claims 88-92, the limitations in claims 88-92 have been met in claims 6-10 rejections.

Regarding claims 93-98, the limitations in claims 93-98 have been met in claims 11-16 rejections.

Regarding claims 99-100, the limitations in claims 99-100 have been met in claims 17-18 rejections.

Regarding claims 102-105, the limitations in claims 102-105 have been met in claims 83-86 rejections. Rothmuller discloses the additional limitations of a control circuitry 10 (figure 1), a display (column 4, lines 29-53; figure 2), and a user input interface 40.

Regarding claims 107-111, the limitations in claims 107-111 have been met in claims 88-92 rejections.

Regarding claims 112-117, the limitations in claims 112-117 have been met in claims 93-98 rejections.

Regarding claims 118-119, the limitations in claims 118-119 have been met in claims 99-100 rejections.

4. Claims 19, 40, 61, 81, 101, 120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothmuller in view of Amano (US Patent # 5,585,865).

Regarding claim 19, the limitations in claim 19 have been met in claim 18 rejection. Rothmuller fails to disclose the additional limitation of television genre. Amano discloses powering on the television and tuning to programs of a specific genre (column 8, lines 6-31) for the benefit of tuning to a preferred past viewing genre (column 2, lines 19-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller to have tuning to programs of a specific genre as taught by Amano for the benefit of tuning to a preferred past viewing genre.

Regarding claim 40, the limitations in claim 40 have been met in claim 19 rejection.

Regarding claim 61, the limitations in claim 61 have been met in claim 19 rejection.

Regarding claim 81, the limitations in claim 81 have been met in claim 61 rejection.

Regarding claim 101, the limitations in claim 101 have been met in claim 19 rejection.

Regarding claim 120, the limitations in claim 120 have been met in claim 101 rejection.

5. Claims 47, 67, 87, 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothmuller in view of Klosterman in further view of Levitan in further view of Lawler.

Regarding claim 47, Neither Rothmuller nor Klosterman discloses an interactive menu on user equipment that includes options that allow a user to invoke an interactive television program guide. Levitan discloses an interactive menu (figure 1) that includes an option that allows a user to invoke an interactive television program guide (column 4, lines 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller in view of Klosterman to have an interactive menu on user equipment that includes options that allow a user to invoke an interactive television program guide as taught by Levitan in order to give the user several options to choose from such as personal guide, auto recording, and channel control.

Neither Rothmuller, Klosterman, nor Levitan discloses video on demand. Lawler discloses the EPG with an option for video on demand (column 8, line 52-column 9, line 33; column 9, lines 50-59) for the benefit of improving the shortcomings of conventional program guides (column 2, lines 33-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rothmuller in view of Klosterman in further view of Levitan to have video on demand with the EPG as taught by Lawler in order to provide the user a improved program guide.

Regarding claim 67, the limitations in claim 67 have been met in claim 43 rejection.

Regarding claim 87, the limitations in claim 87 have been met in claim 43 rejection.

Regarding claim 106, the limitations in claim 106 have been met in claim 43 rejection.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce
Patent Examiner
Art Unit 2614

October 04, 2005



JOHN MILLER
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